STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	**Chapter 150**	Bill No:	**AB 2314**
Tax:	**Property**	Author:	**Block and Knight**
Related Bills:		Position:	**Support as Sponsor**

BILL SUMMARY

Related to the retroactive granting of a disabled veterans' property tax exemption once a disabled veteran receives a 100% disability rating letter from the United States Department of Veterans Affairs (USDVA) or the military service from which the veteran was discharged, this bill would**:**

- Increase the minimum amount of time a disabled veteran has to file a claim for the exemption and receive the full amount of the exemption from 30 days to 90 days.
- Delete a requirement that the disabled veteran have a "pending" application with the USDVA.

ANALYSIS

CURRENT LAW

Article XIII, Section 4 of the California Constitution provides that the Legislature may exempt from property tax, in whole or in part, the home of a person or a person's spouse, if the person, because of injury or disease incurred in military service, is totally disabled. This exemption is commonly referred to as the "disabled veterans' exemption." The disabled veterans' exemption is also available to the unmarried surviving spouse of a person who dies while on active military duty or to the unmarried surviving spouse of a veteran who may or may not have already been receiving the exemption but later dies as a result of a service connected injury or disease.

Revenue and Taxation Code Section 205.5 is the implementing statute. It provides that "totally disabled" means a veteran who has a disability rating from the USDVA or the military service from which the veteran was discharged at 100 percent or has a disability compensation rating at 100 percent because he or she is unable to secure or follow a substantially gainful occupation. The exemption, which is compounded annually by an inflation factor, has two tiers, depending upon the claimant's income.

For the 2010-11 fiscal year, the disabled veterans' exemption amount will be $172,592 of assessed value for those with a household income below $51,699 (the "low income exemption"). For all others, the disabled veteran's exemption amount will be $115,060 (the "basic exemption").

QUALIFICATION	BASIC	LOW INCOME
VETERAN Disability Rating = 100% Disability Compensation = 100% Blind Loss of Two or More Limbs **SPOUSE OF QUALIFIED VETERAN** Surviving Spouse of Disabled Veteran Surviving Spouse of Person Who Died on Active Duty	**$115, 060*** *$100,000 as adjusted for inflation	**$172,592*** *$150,000 as adjusted for inflation **Household Income less that $51,669

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A claim must be filed with the county assessor by specified deadlines. A claim filed after the specified deadline will still be granted, but the exemption will be provided at a reduced amount (i.e., "partial exemption") of either 90% or 85% of the exemption amount depending upon the circumstance.

Section 276.1 provides an exception to the general rule of a partial exemption for late-filed claims in the case where the USDVA has not finished processing the veterans' disability rating certification. Specifically, if a person files a late claim due to a pending disability rating from the USDVA, the full amount of the exemption will be granted, effective as of the date of a disability, provided a claim is filed the later of 30 days after receiving a disability rating letter from the USDVA or on or before the next following lien date (January 1).

PROPOSED LAW

This bill amends Section 276.1 to extend from 30 days to 90 days the minimum amount of time a disabled veteran has to file a claim to receive the full amount of the disabled veterans' exemption retroactively to the effective date of disability in cases where the necessary disability rating letter issued by the USDVA was not timely. In addition, it deletes a requirement that a disabled veteran have had an "application pending" with the USDVA.

IN GENERAL

The following table notes the various sections of code relevant to the provisions of this bill. The exemption amounts noted are applied to the assessed value of the home.

Relevant Revenue & Taxation Code Sections

§ 205.5	Eligibility Qualifications	100% Disability or Compensation Rating by USDVA
§ 277	Claim Filing	Requirement to File
§ 276	Claim Filed Timely	**Full Exemption Amount** Basic Exemption $ 115,060 Low Income Exemption $ 172,592
§ 276	Claim Filed Late	**Partial Exemption** ❖ **90%** Between February 16 and December 10 ➢ Basic Exemption $103,554 ▪ ($115,060 x 90%) ➢ Low Income Exemption $155,333 ▪ ($172,592 x 90%) ❖ **85%** After December 10 ➢ Basic Exemption $ 97,801 ▪ ($115,060 x 85%) ➢ Low Income Exemption $146,703 ▪ ($172,592 x 85%)
§ 276.1	Claim Filed Late - Delayed Disability Rating	**Full Exemption Amount - Retroactively Granted** ❖ Refund of Taxes Previously Paid ➢ 100% for up to four years prior taxes ❖ Cancellation of Outstanding Taxes, Interest, Penalties ➢ 100%
§276.2	Claim Filed On Property Newly Eligible After Lien Date (Jan. 1)	**Full Exemption Amount** Basic Exemption $ 115,060 Low Income Exemption $ 172,592

With respect to the effective date of the exemption in cases of delayed disability ratings under Section 276.1, the disabled veterans' exemption will be granted beginning on the

effective date of the disability, as determined by the USDVA or the military service in which the veteran served. Generally, this will result in a refund of a portion of property taxes previously paid.

BACKGROUND

In 2000, Section 276.1 was added to the Revenue and Taxation Code (SB 1362, Ch. 1085, Stats. 2000) to allow a retroactive granting of the disabled veterans' exemption without a "late filing penalty" that effectively reduced the amount of the exemption in cases of delayed disability ratings. When Section 276.1 was added it gave claimants until the "next following lien date" after receiving the letter to file a claim with the assessor. Since the lien date is January 1, this meant that someone who received a disability rating in the mail in early January would have nearly a year to file, whereas someone who received their rating on December 31 would only have until the next day to file the required claim with the assessor's office. To address this issue, the Board sponsored follow up legislation in 2002 to give claimants *at least* 30 days after receiving their qualifying disability rating letter to file the necessary paperwork. SB 2092 (SR&T Committee, Stats. 2002, Ch. 775) gave newly qualified claimants the *later* of 30 days after receipt of the letter or the next lien date (i.e., January 1), to ensure that persons that receive a letter in December would have a more reasonable opportunity to file a claim to receive the full amount of the exemption.

COMMENTS

1. **Sponsor and Purpose.** The Board of Equalization is sponsoring this bill to remove unnecessary impediments to providing disabled veterans with the maximum amount of the exemption on their home on a retroactive basis should they become eligible for the exemption at a future date.
2. **It can take some time before the USDVA finishes processing a veterans' disability rating certification.** In cases where the veteran is appealing the initial disability rating, it can take a number of years for the issuance of a final USDVA disability rating certification of 100%. In 2000, legislation was enacted to allow disabled veterans to receive the full amount of the exemption retroactively once they receive a qualifying disability rating with a back dated effective date of disability – but they were only given until the next January 1 to file a claim. In 2002, legislation was enacted to give veterans at least 30 days to file the claim once they receive the rating letter.
3. **This bill would eliminate a requirement to having had a "pending" application with the USDVA.** This is an unnecessary precondition that could disqualify a disabled veteran from receiving the full amount of the exemption since there may not have been a "pending" application. Furthermore, some administrators request proof or substantiation that an application had been pending. This can be an onerous task for the disabled veteran if the proof is not easily obtainable. A "pending" application is irrelevant to the process and contrary to the sprit of providing the exemption to qualified veterans and their spouses.
4. **This bill would give veterans who receive the required 100% disability rating letter late in the calendar year more time (up to 90 days) to file for the property tax exemption for which they become newly qualified.** A disabled veteran who receives a disability rating in early January has nearly a full year to file the required claim and receive the full benefit of the exemption. Whereas in the worst case scenario, a disabled veteran receiving a rating on December 31 only has 30 days to

file the claim to receive the full amount of the exemption, otherwise the exemption defaults to a partial exemption of 85%.

5. **Thirty days will not always be enough time to file a claim.** There are a variety of materials as well as various programs and benefits that disabled veterans, surviving spouses of qualified veterans, and their families must sort through after receiving their eligibility status, which can be overwhelming. Some newly qualified veterans will be aware of the property tax exemption and will promptly file a claim. Others may have already filed a protective claim, if the particular county where they live has an administrative practice of accepting such claims without the required disability rating letter. However, some will become aware of the exemption too late to receive the full amount of the exemption that would have otherwise been available on their home.
6. **In practical application, this bill provides an additional property tax refund of $172 (or $259 in case of low income claimants) for each tax year open to refund for disabled veterans who would not otherwise meet the deadline without the extra 60 days or who may not have had a pending application.** A disabled veteran who is filing late because of a delayed disability rating and who also misses the extended filing period for such delayed ratings would typically be eligible for an 85% partial exemption. Thus, the exemption would be granted in the amount or $97,801 rather than $115,060. And in the case of a low income claimant, the exemption would be $146,702 rather than $172,592. At the basic 1% property tax rate, this equates to a loss to the disabled veteran of about $172 for the basic exemption, and about $259 for the low income exemption.

COST ESTIMATE

This bill has no cost impact.

REVENUE ESTIMATE

This bill has a negligible revenue impact.

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